GOVERNMENT OF INDIA
AGRICULTURE AND FARMERS WELFARE
LOK SABHA

STARRED QUESTION NO:540
ANSWERED ON:11.04.2017
Patenting of Seeds and Plants
Kesineni Shri Srinivas

Will the Minister of AGRICULTURE AND FARMERS WELFARE be pleased to state:

(a) whether section 3(J) of the Patents Act, 1970 does not allow patenting of seeds and plants even if they contain patented gene and if so, the details thereof;

(b) whether the Protection of Plant Varieties and Farmers Rights (PPV&FR) Authority is overriding the provisions of Section 3(J) of the Patents Act, 1970 and the researcher"s and Farmer"s Rights provided in PPV&FR Act by imposing a condition of requirement of No Objection Certificate (NOC) from the Bt. trait provider for granting registration to Bt. cotton hybrids under PPV&FR Act and if so, the details thereof;

(c) whether there have been instances of manipulation by certain technology companies to impose this NOC in the process of registration of Bt. cotton hybrids under PPV&FR Act and if so, the details thereof; and

(d) the steps being taken by the Government to check the anti-farmer activities and exploitative practices adopted by the technology companies?

Answer

MINISTER OF AGRICULTURE AND FARMERS WELFARE
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(a) to (d): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO PARTS (a) TO (d) OF LOK SABHA STARRED QUESTION NO. 540 DUE FOR REPLY ON 11TH APRIL, 2017.
(a): Yes, Madam, Section 3 (j) of the Patents Act, 1970 states as follows:-

"plants and animals in whole or any part thereof other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals," are not inventions within the meaning of this Act for the purpose of grant of patents. Accordingly, the patenting of plants and animals or their part thereof is excluded under Patents Act but micro-organisms and gene can be patented under Patents Act, 1970. However, the Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPV&FR Act) grants Intellectual Property Rights (IPR) to plant breeders, researchers and farmers who have developed new and extant plant varieties.

(b): The process to have a declaration under sub-section 18 (1) (h) of the Act that the genetic material or parental material acquired for breeding, evolving or developing the variety has been lawfully acquired is being sought by way of a supporting documents by the Authority from the technology provider for granting registration to Bt. Cotton hybrids under the PPV&FR Act.

(c): There is no manipulation from any side.

(d): Section 39(1)(iii) of PPV&FR Act, 2001 provides that farmers shall be entitled to save, use, sow, re-sow, exchange share or sell their farm produce including the seed of a variety protected under the Act. However, the farmers shall not be entitled to sell the seeds of registered variety in a branded manner. Further, Section 39(2) of the Act provides that if a registered variety fails to give expected performance under given conditions then the farmers can claim compensation from the registered breeder. Section 41 enshrines rights of communities under which if the contribution of village or
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local community is involved in the evolution of any registered variety, then such village or local community can claim compensation from the registered breeder. In addition to the above, farmers are protected from innocent infringement under section 42 of Act, if any Essentially Derived Variety (EDV) is developed from the Farmers' variety the authorization of the farmers are required for registration of such EDV under section 43 of PPV&FR Act, 2001.

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